

Courtland L. Reichman (CA Bar No. 268873)
creichman@reichmanjorgensen.com
Shawna L. Ballard (CA Bar No. 155188)
sballard@reichmanjorgensen.com
Kate Falkenstien (CA Bar No. 313753)
kfalkenstien@reichmanjorgensen.com
Michael G. Flanigan (CA Bar No. 316152)
mflanigan@reichmanjorgensen.com
REICHMAN JORGENSEN LEHMAN &
FELDBERG LLP
100 Marine Parkway, Suite 300
Redwood Shores, CA 94065
Telephone: (650) 623-1401
Facsimile: (650) 623-1449

Khue V. Hoang (CA Bar No. 205917)
khoang@reichmanjorgensen.com
Jaime F. Cardenas-Navia (admitted *pro hac vice*)
jcardenas-navia@reichmanjorgensen.com
Michael Matulewicz-Crowley (admitted *pro hac vice*)
mmatulewicz-crowley@reichmanjorgensen.com
REICHMAN JORGENSEN LEHMAN &
FELDBERG LLP
750 Third Avenue, Suite 2400
New York, NY 10017
Telephone: (646) 921-1474
Facsimile: (650) 623-1449

Attorneys for Plaintiff and Intervenor-Defendant
Droplets, Inc.

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

DROPLETS, INC.,

Plaintiff,

v.

YAHOO!, INC.,

Defendant.

Case No. 12-cv-03733-JST

**DECLARATION OF MICHAEL
MATULEWICZ-CROWLEY IN SUPPORT
OF PLAINTIFF DROPLETS, INC.'S
MOTION FOR LEAVE TO AMEND DR.
SCHMIDT'S NORDSTROM EXPERT
REPORT UNDER L.R. 6-3**

OATH, INC., et al.,

Intervenor-Plaintiffs,

v.

DROPLETS, INC.,

Intervenor-Defendant.

DROPLETS, INC.,

Plaintiff,

v.

NORDSTROM, INC.,

Defendant.

1 I, Michael Matulewicz-Crowley, declare as follows:

2 I make this declaration of my own personal knowledge, and if compelled to testify, I could and
3 would competently testify thereto. I am an attorney at Reichman Jorgensen Lehman & Feldberg LLP,
4 counsel for Plaintiff Droplets, Inc. ("Droplets") in the above-referenced action. Droplets is
5 contemporaneously filing its Motion For Leave to Amend Dr. Schmidt's Nordstrom Expert Report
6 Under Local Rule 6-3 ("Motion"), and I submit this declaration in support of that Motion.

7 1. Pursuant to L.R. 6-3, Droplets moves for relief from the case schedule to serve an
8 amended expert report addressing the Court's post-*Markman* claim constructions for the reasons
9 detailed in its Motion.

10 2. Droplets reached out to counsel for Nordstrom to obtain consent for this motion, but
11 no consent was received. Attached as Exhibit K is a true and correct copy of an email exchange
12 between M. Matulewicz-Crowley, counsel for Droplets, and B. Kleinman, counsel for Nordstrom
13 reflecting this effort.

14 3. As explained in the Motion, without a supplement, Droplets would incur substantial
15 harm by its expert being precluded from presenting to the jury an explanation of how the accused
16 functionalities meet the language of the Court's potential new constructions.

17 4. The case schedule has been modified numerous times. *See* ECF Nos. 310, 314, 316,
18 344, 346, 373, 393, 394, 399, 431, 432, 438, 451, 464, 488, 518, 557, 562, 564, 579, 598, 767, 771,
19 874, 880, 888, and 895.

20 5. Supplementation will not insert delay into the proceedings. Trial is not yet set but is
21 unlikely to occur before April 2022. Therefore, the process can be fully complete before relevant
22 pretrial deadlines.

23 6. Attached as Exhibit A is a true and correct copy of the proposed Amended Expert
24 Report of Dr. Douglas Schmidt regarding Nordstrom.

25 7. Attached as Exhibit B is a true and correct copy of Exhibit C to the proposed Amended
26 Expert Report of Dr. Douglas Schmidt regarding Nordstrom, showing edits to the previous version
27 of Exhibit C to the Corrected Expert Report of Dr. Douglas Schmidt in redline.
28

